

## **REMARKS**

### **Claim Status**

Claims 1-4, 9, 13-16, and 18-21 are pending in the Application. Claims 5-8, 10-12, 17, and 22-25 have been canceled. Entry of the amendment is respectfully requested. No new matter has been added. Reconsideration is respectfully requested.

Support for the amendments to claims 1, 15, and 19 can be found in the specification. For example, for claim 1 note specification page 189, line 13 to page 190 line 9; page 194 lines 1-2; page 213, lines 3-11; and previous claims 10-13. For claim 15 note page 186, lines 3-12; page 193, lines 20-21; page 209, lines 1-5; page 212, lines 12-17; page 216, lines 17-19; and previous claims 16-17. For claim 19 note page 187, line 7 to page 188, line 2; page 193, line 21; page 209, lines 5-7; page 212, line 18 to page 213, line 2; page 216, lines 17-19; and previous claim 22.

### **The 35 U.S.C. § 102/103 Rejections**

The Applicants respectfully traverse the teaching attributed to King (WO 98/50840) by the Office. King does not teach or suggest the recited methods. For example, King at least does not teach or suggest steps (e) and (f) of claim 1; steps (d) and (e) of claim 15; and steps (d) and (e) of claim 19. Nor does King teach or suggest the recited relationships among the steps in the claims. King does not teach or suggest the recited compounding, borrowing, and loaning.

King does not track a drug taken for compounding up to actual storage of the resulting compounded drug. Rather, King's system "automatically" assumes that a drug removed for compounding was compounded (page 22). Nor does King's system use a processor to compare the quantity taken, the quantity wasted in the compounding, and the quantity created in the compounding. Instead, in King a person fills out a form (table 9). That is, King relies on a person to determine inventory.

King also does not track borrowing, storage of the quantity borrowed, and the borrowed quantity that was returned. Nor does King track loaning, the loaned quantity that was returned, and storage of the returned quantity.

The Office's reliance on King at page 19, table 6, and item 8 on page 10 does not teach or suggest the recited method. King at page 19 merely acknowledges that "pharmacies may loan to or borrow items from another local pharmacy". Table 6 is a form for selling (not borrowing or loaning) medication. Item 8 on page 10 merely indicates that a drug can leave the pharmacy for (e.g., be sold to) an outside pharmacy. Item 8 does not relate to the recited steps of borrowing or loaning.

The listed items 1-8 on page 10 actually point to King not teaching or suggesting the recited invention. The listed items 1-8 are occurrences of when drug tracking in King actually occurs. All of these occurrences pertain to the pharmacy location. That is, all tracking occurrences are either when a drug enters the pharmacy (item 1) or when the drug leaves the pharmacy (items 2-8). The teaching of King is directed to tracking drugs at the point of entering or leaving a pharmacy.

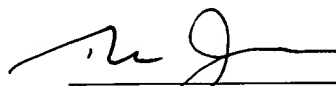
Applicants respectfully traverse the many Official notice assertions on the basis that they are not supported by any reference to prior art. Applicants challenge and request evidence of a prior art teaching for each assertion of Official notice relied upon by the Office. Under the Administrative Procedure Act, the standard of review to be applied to findings is the "substantial evidence" standard. That is, rejections are to be based on "concrete evidence in the record", not mere assertions (as is the current situation). Pursuant to 35 U.S.C. § 103 the Office bears the burden of establishing that all the recited features are known in the prior art. When challenged, the Office is required to establish such assertions in the proper manner through citation to prior art. MPEP § 2144.03.

### **Conclusion**

Applicants respectfully submit that this application is in condition for allowance.

The undersigned is willing to discuss any aspect of the Application by telephone at the Office's convenience.

Respectfully submitted,



Ralph E. Jocke      Reg. No. 31,029  
WALKER & JOCKE  
231 South Broadway  
Medina, Ohio 44256  
(330) 721-0000